

REMARKS

1. Status of the Claims

Claims 1-17 were originally filed in the present application. Claims 2 and 13 are canceled herein without prejudice or disclaimer. Claims 1, 3, 4, 11, 12, and 14-17 are amended herein without prejudice or disclaimer. Applicant reserves the right to prosecute the canceled and amended subject matter in a later filed patent application. Accordingly, claims 1, 3-12, and 14-17 are currently pending in the present application.

2. Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-17 are rejected under 35 U.S.C. § 112, first paragraph because the claims, while being enabled for *in vivo* mouse models of human leukemia and methods for making the *in vivo* human leukemia, allegedly are not reasonably enabled for the *in vivo* model of human leukemia in immunodeficient rodents. Applicants respectfully traverse the present rejection. However, in view of the amendments to the claims above Applicant respectfully submits that the claims are fully enabled and requests that the present rejection be withdrawn.

3. Rejection Under 35 U.S.C. § 102(b)

Claims 10-16 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Yu et al. (Proceedings of the Am. Association for Cancer Research Annual Meeting, March 1999, Vol. 40, page 660, Abstract No. 4352).

A reference relied upon to support a rejection under 35 U.S.C. §102(b) must itself be an enabling disclosure under 35 U.S.C. § 112 (see, e.g., *Transclean Corp. v. Bridgewood Services*,

Inc., 290 F.3d 1364, 62 U.S.P.Q.2d 1865 (Fed. Cir. 2002) and *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1374, 58 USPQ2d 1508 (Fed. Cir. 2001)).

Applicant respectfully submits that Yu et al. is not an enabling disclosure of the invention claimed in claims 10-16 because, for example, Yu et al. does not teach 1) regarding the effective pre-conditioning amount of mononuclear cells derived from human fetal cord blood, 2) that the preconditioned mouse is maintained for 5 to 10 days, and 3) regarding the effective engrafting amount of primary human leukemia cells. Therefore, the present rejection should be withdrawn because Yu et al. is not an enabling disclosure.

CONCLUSION

Applicant believes that claims 1, 3-12, and 14-17 are in condition for allowance and earnestly solicits an early notification of allowance from the Examiner.

The Commissioner is hereby authorized to charge Deposit Account No. 19-0962, should any additional fees be required in this application.

Respectfully submitted,

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Date


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